

**LEMON GROVE HOUSING AUTHORITY
AGENDA ITEM SUMMARY**

Item No. 1E
Mtg. Date June 5, 2018
Dept. City Attorney

Item Title: Beneficiary Statement- Hillside Terrace Community Development Loan

Staff Contact: James P. Lough, City/Authority Attorney

Recommendation:

Adopt Resolution: Resolution of the Housing Authority of the City of Lemon Grove approving a Beneficiary Statement to allow a refinancing of an underlying loan to the Beneficiary of the 2001 Hillside Terrance Loan of \$300,000 dollars without affecting the position of the Housing Authority. (Attachment B)

Item Summary:

Approval of the Resolution will authorize the City Manager (Housing Authority Director) to sign the attached Beneficiary Statement. This Agreement allows the owners of Hillside Terrace to refinance their property without affecting the 2001 Loan from the Lemon Grove Community Development Agency. This loan, by its terms, will be forgiven in 2023 if the owner complies with all of the terms of the financing.

Fiscal Impact:

None. The Housing Authority will be reimbursed for the time and effort of Staff and the City Attorney to process this Agenda item and execute the Beneficiary Statement.

Environmental Review:

- | | |
|-----------------------------------------------------------|---------------------------------------------------------|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- | | |
|-----------------------------------------------------------------|-------------------------------|
| A. Staff Report | D. 2011 Beneficiary Statement |
| B. Resolution Approving Beneficiary Statement | |
| C. City Council Resolution 3020 (May 17, 2011) with attachments | |

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1E

Mtg. Date June 5, 2018

Item Title: **Beneficiary Statement- Hillside Terrace Community Development Loan**

Staff Contact: **James P. Lough, City Attorney**

Discussion:

The previous owners were issued bonds by the City in 2001. A Regulatory Agreement was also signed for the Community Development Agency to monitor compliance with the terms and conditions. In 2011, the City and the Community Development Agency completed a series of agreements recognizing the compliance of the terms and conditions of the original agreements and the requirements of the loan as monitored by the Community Development Agency. Attachment C (Regulatory Agreement release and partial waiver of conditions related to the Multi-Family Housing Revenue Refunding Bonds) & Attachment D (2011 Beneficiary Agreement).

The attached Beneficiary Agreement contains the same terms as the one approved in 2011. The Beneficiary Agreement places the City in the primary position to receive a refund of the \$300,000 loan if the current owner breaches the terms of the original agreements. In 2023, if all conditions are still being met, the \$300,000 loan is forgiven in accordance with the terms approved previously. The new Beneficiary Agreement is intended to keep the City and Housing Authority in the first position in case of default. The new bank loan will occupy the second position. The terms of the new Beneficiary Agreement are identical to the 2011 Beneficiary Agreement that is attached as Attachment D.

The Beneficiary Agreement is with the Housing Authority. The previous agreement was with the redevelopment agency. On May 17, 2011, the State had begun the dissolution of redevelopment, but the Lemon Grove Community Development Agency did not officially dissolve until February 1, 2012. The City of Lemon Grove formed its own Housing Authority to handle regulatory agreements and other housing monitoring like this situation. This matter does not need Oversight Board approval because it is not an asset of the former Community Development Agency and it does not involve any current funding from tax increment or other current financing.

The Resolution calls for the execution of the Beneficiary Agreement by the City Manager (Housing Authority Director). This will allow the City Manager to monitor compliance with the terms of the agreement and the payment of the City's actual costs in preparing this expedited item.

Conclusion:

Staff recommends that the City Council adopt: 1) the Resolution of the Housing Authority of the City of Lemon Grove approving a Beneficiary Statement to allow a refinancing of an underlying loan to the Beneficiary of the 2001 Hillside Terrance Loan of \$300,000 dollars without affecting the position of the Housing Authority (Attachment B); 2) Authorizing the Housing Authority Director (City Manager) to execute the Beneficiary Agreement; and 3) Determine that all other conditions are met including reimbursement to the City/Housing Authority of costs to process this matter.

Attachment B

RESOLUTION NO. 2018-001

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF LEMON GROVE, CALIFORNIA, APPROVING THE BENEFICIARY STATEMENT TO ALLOW REFINANCING OF AN UNDERLYING LOAN TO THE BENEFICIARY OF THE 2001 HILLSIDE TERRACE LOAN OF \$300,000 DOLLARS WITHOUT AFFECTING THE POSITION OF THE HOUSING AUTHORITY

WHEREAS, issuer previously issued its "City of Lemon Grove Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Hillside Terrace Apartments) 2001 Series A (collectively the "Bonds ") under and pursuant to the terms and provisions of a Trust Indenture dated as of February 1, 2001 (the "Indenture ") between the Issuer (City of Lemon Grove) and the Trustee; and

WHEREAS, the proceeds received from the sale of the Bonds were loaned by the Issuer to RETAIL PORTFOLIO 30 -1, LLC, a California limited liability company (the "Developer ") under and pursuant to the terms and provisions of a Financing Agreement dated as of February 1, 2001 (the "Financing Agreement "), between the Issuer, the Trustee and Developer and were used by the Developer to refinance certain real property located at 3262 College Place, in the CITY OF LEMON GROVE, County of San Diego, State of California (the "Project "); and

WHEREAS, by the terms of Section 9a(1) of the Indenture, the conditions of Section 9b(1) of the Indenture must be satisfied prior to a discharge of the Indenture and the pledge and assignment of the Security, and

WHEREAS, substantially concurrent with the execution of this Waiver, the Bonds will have been paid in full, the Trustee's Annual Fee and the Trustee's ordinary costs and expenses under the Indenture will have been paid in full, all Extraordinary Items will have been paid in full, and the Credit Facility will have been returned to the Credit Provider, all as contemplated under Section 9b.(1) of the Indenture; and

WHEREAS, section 9b.(1) of the Indenture, in addition to the satisfaction of the conditions referenced in Recital D above, requires that the Trustee shall have received: "a written statement from the Credit Provider stating that all obligations owed to the Credit Provider under the Credit Facility Documents have been fully paid, ... a written statement from the Issuer stating that all amounts owed to the Issuer in respect of Reserved Rights have been fully paid, and ...an Opinion of Counsel, at the expense of Borrower, stating that all conditions precedent to the satisfaction and discharge of this Indenture have been satisfied "; and

WHEREAS, Issuer, Credit Provider, and Trustee have determined that the conditions referenced above (collectively, the "Waived Conditions ") are unnecessary and, accordingly, the Parties hereto desire to enter into and execute this Waiver for the purpose of evidencing the waiver of the Waived Conditions; and

WHEREAS, on or about May 13, 2011, the Executive Director of the Lemon Grove Community Development Agency executed a Beneficiary Statement recognizing and allowing the refinance of the Hillside Terrace Loan and Deed of Trust that retained the Community Development Agency in the superior position in case of default; and

WHEREAS, on May 17, 2011, the Board of the Lemon Grove Community Development Agency ratified the Beneficiary Statement, among approving other transactions, to allow the refinancing of the Hillside Terrace Loan and Deed of Trust by Retail Portfolio 30-1, LLC; and

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